

**REMARKS**

**I. INTRODUCTION**

Claims 1 and 9 have been amended. Claim 8 has been cancelled. No new matter has been added. Thus claims 1-7 and 9 are pending in the present application. In view of the above amendments and following remarks, it is respectfully submitted that all of the presently pending claims are allowable.

**II. THE 35 U.S.C. § 102(e) REJECTIONS SHOULD BE WITHDRAWN**

Claims 1 and 6 stand rejected under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent No. 6,579,321 to Phipps (hereinafter "Phipps"). (See 05/09/2008 Office Action p. 2).

Claim 1 has been amended to recite the limitations of claim 8. In rejecting claim 8, the Examiner asserts that Phipps in view of Tong 2003/0171661 teaches the use of a motion sensor with an ekg system to compensate for the effects of motion artifacts. (See 05/09/2008 Office Action, p. 4). Thus, the Examiner has admitted that Phipps does not teach the limitations of claim 8. (now recited in claim 1).

Tong describes an electrode system for reducing noise from an electronic signal, the system including an electrode that provides the electronic signal, and a sensor that senses motion and provides a motion signal. (See Tong Abstract). Tong states that at least one motion sensor is coupled to a recording electrode. Motion signals from the motion sensors are determined and an adaptive noise cancellation analysis is made of the motion signals in order to determine an estimate of noise which is subtracted from the differential signals. (See Tong, p. 4, para. 0046). The motion sensors in Tong are always operating to provide noise reduction in the electrode signal. That is, the motion sensors in Tong are not selectively activated, as recited in claim 1.

Applicants respectfully submit that Phipps either alone or in combination with Tong does not teach or suggest “a motion sensor arranged to monitor a physical activity of the user, the motion sensor being selectively activated by the detection means,” as recited in claim 1. Because claim 6 depends from, and therefore includes all the limitations of claim 1, it is respectfully submitted that claim 6 is also allowable for at least the same reasons given above with respect to claim 1.

### **III. THE 35 U.S.C. § 103(a) REJECTIONS SHOULD BE WITHDRAWN**

Claims 2-4 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Phipps in view of U.S. Patent No. 6,287,252 to Lugo (hereinafter “Lugo”). (See 05/09/2008 Office Action p. 2-3).

Applicants submit that Lugo does not cure the above described deficiencies of Phipps and Tong with respect to claim 1. Therefore, Applicants submit that claim 1 is patentable over Lugo. Because claims 2-4 depend from, and therefore include all the limitations of claim 1, it is respectfully submitted that these claims are also allowable for at least the same reasons given above with respect to claim 1.

Claim 5 stands rejected under 35 U.S.C. 103(a) as being unpatentable over Phipps in view of U.S. Patent No. 5,348,008 to Bornn et al. (hereinafter “Bornn”). (See 05/09/2008 Office Action p. 3).

Applicants submit that Bornn does not cure the above described deficiencies of Phipps and Tong with respect to claim 1. Therefore, Applicants submit that claim 1 is patentable over Bornn. Because claim 5 depends from, and therefore includes all the limitations of claim 1, it is respectfully submitted that this claim is also allowable for at least the same reasons given above with respect to claim 1.

Claim 7 stands rejected under 35 U.S.C. 103(a) as being unpatentable over Phipps in view of U.S. Patent No. 6,351,671 to Myklebust (hereinafter “Myklebust”). (See 05/09/2008 Office Action p. 3-4).

Applicants submit that Myklebust does not cure the above described deficiencies of Phipps and Tong with respect to claim 1. Therefore, Applicants submit that claim 1 is patentable over Myklebust. Because claim 7 depends from, and therefore includes all the limitations of claim 1, it is respectfully submitted that this claim is also allowable for at least the same reasons given above with respect to claim 1.

Claim 8 stands rejected under 35 U.S.C. 103(a) as being unpatentable over Phipps in view of U.S. Patent Pub. No. 2003/0171661 to Tong (hereinafter “Tong”). (See 05/09/2008 Office Action p. 3-4).

Claim 8 has been cancelled.

Claim 9 stands rejected under 35 U.S.C. 103(a) as being unpatentable over Phipps in view of Tong in further view of Bornn. (See 05/09/2008 Office Action p. 4).

Applicants submit that Bornn does not cure the above described deficiencies of Phipps and Tong with respect to claim 1. Therefore, Applicants submit that claim 1 is patentable over Bornn. Because claim 9 depends from, and therefore includes all the limitations of claim 1, it is respectfully submitted that this claim is also allowable for at least the same reasons given above with respect to claim 1.

**CONCLUSION**

In light of the foregoing, Applicants respectfully submit that all of the now pending claims are in condition for allowance. All issues raised by the Examiner having been addressed. An early and favorable action on the merits is earnestly solicited.

Respectfully submitted,

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